

REMARKS

In the last office action, it was indicated that claims 1 and 5-15 are pending in the application, with claims 6-8, 10-12 and 15 being withdrawn from consideration. The remaining claims (i.e., claims 1, 5, 13 and 14) were rejected on the basis of prior art.

Claim 1 was rejected as being anticipated by Ramey et al under 35 USC 102(b).

Claims 1, 13 and 14 were rejected under 35 USC 103(a) on the basis of Ramey et al. in view of Beggum et al or EDGAR ONLINE.

Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Ramey et al in view of Beggum et al. as applied to claims 1-5, 9, 14 above, and further in view of Meyers.

The claims have been amended and additional claims have been added to distinguish more clearly over the prior art. More specifically, claim 1 has been canceled and been rewritten in a modified form as claim 16, and newly submitted claims 17-27 have been added. Now to proceed in an orderly manner, the text which follows will be divided into four sections namely:

A) Introduction to the invention and brief discussion of the parent claim 16;

B) Discussion of the prior art, particularly of the Ramey et al patent (U.S. 5,297,685);

C) More detailed discussion of the claims, particularly the parent claims 16 and 17;

D) A more detailed discussion of the various features, functions and benefits of the present invention; and

E) Arguments supporting patentability of the present invention.

PRELIMINARY COMMENT: It is believed by the applicant's attorney that the most important issue to be resolved in the prosecution of this patent application is whether the Ramey et al patent (U.S. 5,297,685) either by itself or in combination with the other prior art cited, renders the present invention obvious. It is believed that if that issue is resolved, the remainder of the issues will fall into place rather easily.

With the above introductory comments having been made, we will now proceed to discuss the five sections as indicated above.

A) Introduction to the present invention and a preliminary review of some of the limitations contained in parent claims 16 and 17.

a) How people generally regard grocery shopping.

Surveys show that most people regard grocery store shopping as an unwelcome chore. In selecting a grocery store the first preference of most shoppers is location (i.e., how convenient it is to get to and from the grocery store). Then the next major concern is being able to find your way around the store so that you can do your shopping more quickly and efficiently.

b) How location of products in the store and the associated signs are generally planned in the stores.

The products that are located in any one aisle are usually designated rather generally by overhead signs at the end locations of the aisles. These signs will give in print the products and/or classes of products that would be found in the aisle. For example, an aisle may have an overhead sign that reads as follows:

“Canned Sauces, Hot Cereal, Pasta, Pancake Mix, Syrup”

At another location there may be a sign that reads:

“Coffee, Coffee Filters, Instant Coffee, Cocoa,
Pickles, BBQ Sauce, Salad Dressing”

However, in most instances these signs do not designate each and every product in that aisle. In addition to the products in the aisle that are listed on the sign there are often other products in the aisle that

do not fall within the scope of the items that are printed on the sign. These can be called “location related” products. These are products which would be expected to likely be in that particular aisle, even though those products are not within the scope of the broad definitions.

There are various motivations for the grocer placing these products in a particular aisle. One consideration is how to benefit from “impulse shopping”. This occurs when a person has specific items on that person’s list, and then while he/she is looking for that particular item on the shelf, he/she spots several products other products that he/she possibly should purchase. Therefore, if a person is looking for soft drinks, the person might see some packages of popcorn, potato chips or other snacks, etc., and end up buying some of these. In any event, a person who does a fair amount of grocery store shopping becomes generally familiar with this pattern and looks for the various items in the store aisles accordingly.

c) Preliminary review of the present invention.

The basic components of the present invention can best be understood by viewing Figs. 3, 4 and 5 of the present application.

Fig. 3 shows a single display sign at one end of an aisle in a grocery store which is a collage of about eight brand name product representations which show the wording, graphics and configuration of these products which are the same as (or at least very close to) the actual appearance of these products.

Then in Fig. 4, there is a view of multiple display signs at the end locations of several aisles, viewed from a location where customers can see several of these signs at once. Fig. 5 shows the display sign of Fig. 3, drawn to an enlarged scale where the product representations are shown and also the word designations of the types of items in the aisle. Fig. 5A shows the sign substantially the same as Fig. 5, but without the lower words shown in Fig. 5A.

When the shopper sees the display sign such as shown in Fig. 4, several things can happen very quickly. First, the person has in his memory a pictorial presentation of brand name products which are on the sign. Further, this display sign informs the shopper that not only are these displayed products in that aisle, but beyond that it advises the shopper that there are likely other location related products which are likely to be found in that aisle.

Another advantage of this display sign is that it is easier for a person to associate that display sign with a particular product and thus, have a better recollection of the layout of the aisles in the store.

d) What the present invention is NOT intended to do.

It is **very important** this point is properly recognized. This is a major distinction which differentiates the present invention from the Ramey et al patent. It is obvious from the above description that the display sign of the present invention does **not** identify all the products in that aisle. What the present invention is intended to so is to give the shopper a memory hook where the location and type of contents in each of the aisles is better remembered so that the shopper more easily identifies the overall layout of the store as well as the items in that aisle. This has been established with the six month study of trying this system out in an actual supermarket. This will be discussed later.

COMMENT: To jump ahead somewhat in the presentation in these remarks, this main feature of the present invention is totally opposite or antagonistic to the teachings of the main piece of prior art cited in the last office action, namely the Ramey et al patent. More specifically, if this

characteristic were to be introduced into the system of Ramey et al the basic purpose of the Ramey et al patent would be totally frustrated.

B) Discussion of the prior art, particularly of the Ramey et al patent (U.S. 5,297,685).

There are three items of prior art that were cited in the last office action, these are:

- i) U.S. 5,297,685 (Ramey);
- ii) U.S. 6,012,244 (Beggum et al); and
- iii) EDGAR ONLINE, American Coin Merchandising.

We will discuss each of these under the appropriate headings.

1) U.S. 5,297,685 (Ramey)

As indicated earlier in these remarks, it is believed that the most important issue to be examined in the prosecution of this application is whether or not the Ramey et al patent renders a present invention obvious. Accordingly, to make a balanced presentation of the basic system of the Ramey et al patent, the undersigned did his best to adopt a frame of mind where he would know nothing about this Enfield patent application and was looking at the Ramey et al patent for the first time to discern its basic teachings and see where these would lead us.

Accordingly, in making the following assessment of the basic teachings of the Ramey et al patent, the undersigned wanted to do his best to avoid picking out only a few phrases here and there that would support his position. Rather it was his aim to get to the heart of what Ramey et al is teaching and provide an honest and balanced presentation by making reference to the text in the Ramey et al patent which is truly indicative of its basic teachings. In doing this will begin by looking at the main sections of Ramey et al.

i) **FIELD OF THE INVENTION (in the Ramey patent).**

Column 1, line 13 under “**FIELD OF THE INVENTION**”
there is following language:

“The present invention is directed to method and apparatus for displaying bulk commodities including such things as finished and unfinished moldings, picture frames, window, doors, and other related mill work. More specifically, a preferred embodiment of the present invention relates to method and apparatus for displaying moulding.”

ii) **“OBJECTS AND SUMMARY OF THE PRESENT INVENTION” (in the Ramey patent).**

This section begins on column 2, line 1 and the language in the first paragraph is as follows:

“An object of the present invention is to provide method and apparatus for displaying moulding and other bulk commodities in a manner which enables a consumer to readily locate the desired article without the assistance of sales persons.”

iii) DETAILED DESCRIPTION OF THE INVENTION (in the Ramey patent).

This detailed description of the system in the Ramey begins in the middle of column 5 and continues on through the top half of column 7. However, rather than quoting extensively from the text, we will begin by referring first to Fig. 4 of Ramey et al which shows the main directory sign “C” in Ramey that is placed at the end of the aisle.

This sign in Fig. 4 is a relatively large sign which shows **every moulding** (emphasis added) that is in that adjacent aisle. The representations of the mouldings are arranged in six groups, and each moulding is shown in cross section along with the descriptive wording. It is important to note that the sign in

Fig. 4 shows every type of moulding available in that aisle.

(emphasis added)

Each of the six groups shown in Fig. 4 is color coded. For example, the area 14 at the upper left hand corner of the sign is colored red or a shade thereof, the second area of 16 is coded with the color blue, or a shade thereof, etc..

After the shopper finds the particular moulding that he wants, the person looks at the color of that particular group in which the moulding is located and then moves down the aisle to the aisle location which is color coded with that same color.

With reference to Fig. 1, it can be seen that there is an overhead color coded sign (e.g., 36 38, 40, etc.) for each of the six color coded sections. For example, the nearest sign 36 identifies “window and door” mouldings which we find in Fig. 4 at the upper left hand corner and is color coded red. The sign 36 is thus also colored red.

Then down below each upper sign (e.g., sign 36 which is colored red), there is a display panel. In all there are six display panels, 50, 52 ... 60. Each display panel 50 - 60 has a heading (such as “window and door”) printed

thereon and also has a plurality of removable card members 62 arranged in a vertical row with each card member 62 showing a particular moulding. These card members by an adhesive are secured by an adhesive to the display panel. For example, for the display panel 50, as can be seen in Fig. 2, this is labeled "window and door", and three of the mouldings which are in that section are shown. (Only three mouldings are shown, but I believe this is done only for ease of illustration.)

The cards 62 are provided with an adhesive 64 on substantially the entire surface and there is a peel-off member 66. These labels identify the mouldings available within that corresponding group, by means of the descriptive wording and the graphic illustration. Since the peel-off member 66 can be removed, if that particular moulding is out of stock, the peel-off member can be removed so that the person can see that this particular moulding is out of stock because of the lack of its designation on that display panel.

vi) OPERATION (of the Ramey patent).

Possibly the best summary of what I might call the “essence” of the Ramey patent is in the section called “OPERATION” (starting in column 7, lines 31) which, as its title implies, describes the operation of the system. I will simply paraphrase the steps that are presented in this section of Ramey, and I would like to confirm that the following text closely follows the text in the patent. These are as follows:

1. First in lines 34 through 39, of column 7, it indicates that there has generally been a cutback in sales staff in stores, going more to a self service operation, which results in the customer being more or less on his/her own to locate the moulding he desires.
2. Then beginning in line 40 of column 7, it points out that in the Ramey et al system the customer can locate the moulding he desires entirely on his own, and the first step is to look at the directory sign C (the big sign of Fig. 4) to identify which of the six groups is the group where the moulding he wants is located and also identify the color coding of that group.

3. Then the customer, with the color coding in mind (see column 7, line 48), moves down the aisle where the mouldings are stocked and looks at the overhead display signs (starting at sign 36 and going on down the aisle toward sign 46) to find the same color that matches the color of the group that he has selected from the sign in Fig. 4.

4. When the person finds the overhead sign (36-46) that has the matching color (e.g., the blue coding of sign 40), the person looks down at the lower display panel (e.g., 50, 52, ... 60) which is closer to the eye level (the display panel 56 being the one matching the overhead sign 40). The display panel 56 has the individual representations of each of the mouldings in that group (column 7, lines 56 - 58).

5. In line 58 (column 7) it states that preferably the card members 62 on the display panel 56 are listed in sequence in which they are stored in the support member B to further assist the customer.

6. As indicated in column 7, beginning on line 61 and following, the removable card member 62 readily permits the business proprietor to change the mouldings when a particular moulding is sold out and the “corresponding card 62 may be removed to indicate the same to the customer”.

This chain of events has now led the shopper to the correct color coded location where he can find his moulding, and the associated display panel (50, 52, ... 60) lists and shows the actual mouldings that are in this particular color coded section.

v) ADVANTAGES RECITED IN THE RAMEY PATENT.

In column 2, lines 40 - , the advantages of Ramey are recited as follows:

“The display system recited above is advantageous for numerous reasons, several of which of enumerated below. By providing directing means for listing the articles supported by this support means, a consumer can readily determine if the article he or she desires is available. Color coding

the directory means and the group location identification means assist the consumer in locating the group of articles he is seeking. This is particularly beneficial where the displayed articles, for example moulding, are characterized in several groups which can not be readily distinguished by the average consumer.”

COMMENT: It would be helpful at this point to review the basic components of the Ramey patent which enable it to achieve the goals envisioned in the Ramey patent, as noted in the previous text. These components are as follows:

i) The directory sign C can be considered to be the hub or central processing unit of the system which interacts with the other components to make them work.

The directory sign C shows **each and every one of a plurality of products in a class of products** (in this case a plurality of mouldings) that are displayed in that aisle;

ii) Further directory C groups each and everyone of the product representations of this class of products (the

sectional drawings and/or verbal identification of the mouldings) into a plurality of groups (six in this particular instance), all of which are displayed in one of the groups in directory C in separate group locations;

iii) Presenting in directory C the color coding for each of the groups (e.g., a red color coding etc.;

iv) Physically placing the groups of the products shown in directory C in the aisle at spaced locations along the aisle with each product in a particular group being at that group location;

v) Placing color identification symbols that are shown in directory C at each of the physical locations along the aisle (six locations in this instance) where that group of products is located;

vi) Positioning display panels (50, 52, ... 60) at each of the product grouping locations along the aisle to display each of the products that are at that group location so that in addition to identifying the location of the desired moulding in the main directory sign C, the person can again identify the desired moulding at the location where

he will be physically taking that moulding (or having it taken from its location on the shelf); and

vii) In the specific version shown in the Ramey patent, these display panels (50, 52, ... 60) have the additional benefit of having replaceable sticker-like representations so that these can be removed and added depending upon whether that product is in stock or not.

FURTHER COMMENT: It is of interest to note at this time that **none of the seven elements of the Ramey system as recited immediately above are present in the Enfield patent application.**

At this point, with the details of the Ramey et al. patent in mind, it may be enlightening to consider what would happen if the directory sign C in the Ramey et al. patent were replaced by the display sign following the teachings of the present Enfield application. In the newly proposed claim 16 in this letter, the earlier corresponding claim 1 was amended to incorporate the following language:

“g) the number of brand name product representations in any one display sign being at most only a relatively

small fraction of the number of location related products in the aisles that are associated with the display sign; ” and

It is evident that if the directory sign C of Ramey et al. were modified simply to show only a small fraction of the many products in the adjacent aisle as representative of what the products in the aisle would likely be, as is done in the Enfield system, the viability of the various other components in the system to function properly would be either diminished or completely obliterated and the overall intended purpose of the Ramey et al system would be obstructed.

The entire philosophy of the Ramey et al. patent is to enable the shopper to look at the directory sign C which shows every item in the aisle to obtain information to:

- a) determine
 - i) if the product is in that aisle, and
 - ii) in which color group that moulding is located;
- b) facilitate locating the selected product in one of the groups in that aisle by use of the color coding system and the local information panel of the group at that location.

The effectiveness of all of this would be dissipated by the loss of the full and accurate information in the directory sign C.

2) U.S. 6,012,244 (Beggum, et al).

To begin our review of this patent, let us first turn our attention to the very first paragraph of the text of this patent under the title “BACKGROUND OF THE INVENTION”. This reads as follows:

“This invention relates to the field of retail marketing and in particular to an electronic, product promotional device. The product promotional device of this invention is a shelf-mounted display sign with a mechanical shelf clip connected to a vertical battery canister that has a bracket with a flexible flap that provides a sign board for an advertisement or product promotion. The canister includes one or more lights to attract a shopper’s attention and preferably includes circuitry for the preferred embodiment as a trigger unit for a shopping card display.”

As a person reads further into the text of the Beggum et al. patent, it is quickly revealed that this patent deals mainly with the technical details of how the device is mounted to a pricing rail 16 which in turn connects to a cylindrical canister unit 24. Then the

display sign 10 is mounted to canister unit. There is electric circuitry and lights which are controlled to flash on and off.

If one reads through the text beginning in column 3 and going on to column 4, a person finds that he would get half way down column 4 to line 29 where it talks about the sign board 25 itself. It is stated that the sign board can be changed or replaced without removing the unit from the shelf. Then on line 39, it states that the sign board 25 is preferably of a flexible 3-ply sheet 102 with a paper sheet 104 printed with graphics 106 and text 108 on both sides sandwiched between two clear plastic sheets 110 and 112. Then it points out that the resulting laminated sheet is easily fabricated and it is flexible to allow the sign board to be bent or deflected without folding or creasing.

COMMENT: Let us now turn our attention back to the Ramey patent and look at the seven elements which were recited as the key elements of the Ramey patent, and see how the teachings of this Beggum et al. patent may fit into the system of Ramey. More specifically, let us assume that someone is taking a look at the Ramey patent for the first time and then the Beggum et al. patent comes to his attention. The Ramey system already has the product

identification at the main directory sign C, and then there is a signage at the upper part of the aisle, and also the display panels that list each of the products. The Beggum et al. patent relates primarily to a manner of attaching a sign in a particular way to a shelf, and also to have flashing display lights. However, this is not relevant to the present invention of the Enfield application.

**3) The EDGAR ONLINE, American Coin Merchandising,
www.sec.degar-online.com, 3/21/01.**

This is the third item of prior art relied upon in the last office action. This is a publication taken from the internet. In using this publication to reject the claims, attention was called to language which is in the first paragraph of the first page, and also the language which appears in the first eleven lines on the following page.

To analyze this further, let us first quote from certain language in this internet publication, and comment on it. We will begin by reviewing the language of the first paragraph of the first page. This is given below in paragraphs i) and ii):

- i) “American Coin Merchandising, Inc. (the “Company”) is the leading owner, operator and franchisor in the United States

of coin-operated amusement, vending equipment with more than 26,000 pieces of equipment on location. Over 14,000 of these machines are skill-crane machines (“Shoppes”) that dispense plush toys, watches, jewelry, novelties and other items with the balance of the amusement vending equipment comprised of video games, kiddie rides and bulk vending equipment.”

COMMENT: Now we know that these machines are vending machines to dispense toys, watches, etc., and that the Company refers to these vending machines as “Shoppes”. Let us now look at the rest of the first paragraph of page 1.

ii) “For up to 50 (cent) a play, customers maneuver the skill-crane into position and attempt to retrieve the desired item in the machine’s enclosed display area before play is ended. The Company’s Shoppes are placed in supermarkets, mass merchandisers, restaurants, bowling centers, truckstops, bingo halls, bars, warehouse clubs and similar locations (“Retail Accounts”) to take advantage of the regular customer traffic at

these locations. The Company utilizes appealing displays of quality merchandise, new product introductions, including Company-designed products, licensed products and seasonal items, and other merchandising techniques to attract new and repeat customers.”

COMMENT: Apparently the Examiner latched on to the language in the fourth line as noted where it states that “The Company’s shoppes are placed in supermarkets, mass merchandisers, restaurants, ...”

So now we know that these vending machines can be placed in supermarkets or most any other locations where people pass by.

Then we go to the first four lines of page 2 and this language reads as follows:

iii) “Machine Appearance, Merchandise and Merchandising Techniques. The Company’s Shoppes are distinctively marked with the SugarLoaf logo and other signage that is readily identifiable with the Company in order to create brand recognition.”

It appears that the only relevance of this language is that the “Company’s Shoppes are distinctly marked with the SugarLoaf logo and signage that is readily identifiable with the Company in order to create brand recognition.”

How is that relevant to the present invention? That has nothing to do with the present invention where a variety of brand name product representations are placed on a sign adjacent to the end of an aisle to give information as to the products which are in that aisle so that shoppers can get a better idea of the overall layout of the store and also have information relating to the products which are likely to be found in that aisle.

3) Further investigation done by the applicant’s attorney (the undersigned).

At this point the undersigned began wondering if he was missing something. So the undersigned contacted American Coin Merchandising and found that there are two of these Shoppes were located within a mile of the undersigned’s office.

One of the Shoppes is at a Fred Meyers store which is one of these gigantic one-stop shopping structures where an individual can buy most anything (i.e., like a Wal Mart), including the sale of

groceries. The other Shoppe is in a nearby Denny's Restaurant. The undersigned then went to each of these locales to see what the "Shoppes" are like, how and where they were positioned, what designations were there, etc..

i. A visit to the Fred Meyers store.

In the Fred Meyer store, this Shoppe was located in the large vacant entry area coming into the stores. This entry area is far away from the actual shopping area. It was located where there was a lot of foot traffic far removed from the aisles of the store. It was immediately next to a Coca Cola vending machine that was also in that large entry area, and the Shoppes structure was about the same size as the Coca Cola vending machine.

More specifically, the Shoppe was a rectangular box-like structure about three feet by four feet in its horizontal width dimensions, and about six or seven feet high. There was a glass enclosed upper region, which extended from a lower level of about three feet or so above the floor up to six to seven feet high. In the glass enclosed region there was a large number of small "carnival type" articles such as a small stuffed animal, a

very small toy truck two to three inches long, such as a very young child would play with, trinkets, etc..

Inside the glass enclosure of the Shoppe there was a gripping and retrieving device of what is known in the construction industry as a “clam shell”. There is a small boom extending about a foot and a half outwardly from the side wall, with a string or a cable extending down from the end of the boom and terminating in two clam shells or jaws that can move together to grip one of these toys, stuffed animals, etc..

There was a charge of fifty cents to try your luck and attempt to retrieve the small stuff animal, the truck or whatever, by manipulating the clam shell hoist by means of a control device. The undersigned put in two quarters, but the machine didn't work. The control device would not move the boom for the clam shell, so the undersigned left the store without a prize.

Aside from the Coca Cola machine, there was nothing else in this entire entryway to the Fred Meyer store. There possibly was a trademark of a sort at the top of the Shoppe machine, but it was difficult to see where it had any connection with any of these toy like objects that were in the glass

enclosure. Also, none of these toy objects in the glass enclosed region were for sale, but were your “surprise gift” if you were skilled enough to manipulate the clam shell properly. Further, as indicated above, the large grocery section of the Fred Meyers store was rather far away from the Shoppe.

ii. A visit to the Denny’s Restaurant.

Then the undersigned visited the Denny’s restaurant and found a second Shoppe machine which was very similar to (or possibly identical to) the other “Shoppe” structure. The undersigned walked through the front entrance of the Denny’s restaurant and proceeded to a back wall where the Shoppe structure was located. It was immediately adjacent to one of the aisles where people would walk when being seated in the restaurant. There did not appear to be a connection with any trademarks of any sort.

The Shoppes at the Fred Meyer store and the Denny’s Restaurant were totally consistent with what was described to the undersigned in a telephone conference with the personnel at American Coin Advertising. This is more of an amusement machine (I would guess being operated by children or possibly

an adult who was attempting to retrieve a toy for the child) and there is an element of chance in it since one could not be quite sure what he might latch onto with the clam shell device, particularly when it is suspended from cable or string that may not be accurately controllable in its position.

C. More Detailed Discussions of The Claims, Parent Claims 16 and 17.

Introduction.

In this discussion, the focus will be primarily on the two independent claims 16 and 17. Claim 16 has the same general format as the earlier submitted claim 1 as amended. Claim 17 has substantially the same basic components and limitations as claim 16. However, claim 17 differs from claim 16 in that instead of beginning with the words "A store facility system... ", claim 17 is recited as "A combination of a plurality of display signs in a store facility..." This is to emphasize the fact that there are certain characteristics of the typical supermarket store facility which match functionally with the display signs of the present invention very effectively. It is a case of "one plus one equals three."

The supermarket store facility has primarily grocery and drug related products along with some of the other products that are commonly found in

supermarkets. The brand name, graphics and configuration of the packaged, bottled, canned and other contained products are already designed to be “catch” and easily identified and remembered by the shoppers. Thus, when these are used in the display signs they match very well when used in signage such as used in the present invention. When these representations are arranged in signage at or proximate to the end location of the store aisles there is what may be termed as a “synergistic effect” by way of informing the shoppers of the items and type of items in the aisles and also the overall store layout.

In the first part of this section, there will be a discussion of each of the components and limitations of claim 16 and how these relate in comparison to the Ramey et al patent, followed by a discussion of the advantages which are provided by the present invention. The identification of these advantages is by no means immediately obvious. Rather, as will be discussed later in our more general discussion of the advantages, these are established by a six month experiment in an actual supermarket type store where it operated for three months without the signage of the present invention and another three months with the signage with the present invention. It was only after this was demonstrated that these were fully realized and appreciated.

With that introduction, we will now look at each of the components of claim 16. This will be done by first identifying the portion or portions of claim 16 which are under discussion, and discussing how these are of benefit in the present invention and also make the distinctions of how these might relate to the Ramey et al patent. Then as indicated as above there will be further discussion of the advantages of the present invention.

DISCUSSION OF CLAIM 16.

1. The introductory paragraph.

This introductory paragraph simply states “a store facility system” and its two main functions are:

- i) assisting customers to locate products;
- ii) obtain greater familiarity of an overall pattern of product location in the store facility.

COMMENT: As indicated previously in this text, surveys show that most people regard grocery shopping of more of an unwelcome chore. First, they want to get to the stores as easily as possible. Second they want to do their shopping where they are able to find the various products more easily by knowing the general layout of the store, and having a better “memory hook” so that they can find these products more easily by selecting the right aisle and remembering what is in it.

Paragraphs a, b, and c of claim 16.

These three paragraphs recite generally a shopping area where there are store products, and these are in elongate aisles having first and second end portions. Then in paragraph c of claim 16 there is a recitation of the nature of the food products, stating that they comprise one or more of:

“Frozen food products, refrigerated food products, food products which are canned, bottled or packaged food products and drug store products.”

This clearly places the claimed subject matter of this invention in what we will call a “supermarket” environment where the groceries and drug store products are the predominate product lines, but also have additional products as is done in typical supermarkets.

Subparagraphs i), ii), iii) of paragraph C.

Also, in paragraph c, subparagraphs i), ii) and iii) recite the categories of which these products fall relative to primary location products, secondary location products, etc.. This relates to the grouping of products and the pattern of product location.

Subparagraph iv of paragraph C.

iv) This states that a substantial portion of these products are brand name products with an overall brand name product appearance, including the brand name and any packaging and/or graphic representations. As indicated above, this results in particular advantages. As indicated, many of these products have been advertised and the customer has familiarity with these. Further, the company who provides these products wants to make the packaging attractive and eye catching so that there is more likelihood that this product will sell. The “fringe benefit” with regard to presenting representations of these products is that the shopper will more readily recognize these products and also remember them. Further, when they see maybe eight or ten of these products in a single display it is a picture which can more easily remembered than if these were simply a listing of words.

Paragraph d) of claim 16.

This paragraph d) recites that a substantial portion of the products located in each of the aisles are location related to other products in that aisle. This was explained more completely earlier in this text where the arrangement of the aisles in supermarkets are generally such that certain

products will generally be in proximity to one another (i.e., in the same aisle and possibly closer to one another in that aisle). Also the patterns of product location in the various supermarkets have over the years become more similar to one another. The shopper gets used to this over the years and uses this as something of a guide to find where products are located.

Paragraph e) of claim 16.

This paragraph recites the plurality of display signs, each of which is located in, at, or proximate to, its related aisle or positioned so as to be associated with that aisle. Also, signs are located to be visible to the shopper.

Paragraph f) of claim 16.

In subsection f it is recited that the display signs have a plurality of brand name product representations or products which are representative of other usage related products in its related secondary location product category, etc..

This paragraph f) also recites that each of these brand name product representations are representative of a greater number of other products in the aisle associated with that display sign. Further, it is stated that these

brand name product representations have the overall brand name appearance including the brand name on the packaging and/or graphic representations. The advantages of this is that the represented product would look the same as the shopper would see it on the shelf. Also, as indicated above, this collection of a number of these product representations provide the shopper with an image which is more easily remembered than a listing of possibly eight or ten words. Thus, the person is able to not only remember that particular aisle and what is there, but by passing by a larger number of aisles, the person is better acquainted with the overall of the store.

Paragraph g) of claim 16:

This paragraph g) reads as follows:

“g) the number of brand name product representations in the display signs being at most a relatively small fraction of the number of usage related products in the aisle that is associated with that display sign, with a substantial portion of the brand name product representations on the display sign having a direct relationship to the brand name product which it shows and an indirect relationship

as being usage related to other products in that aisle, whether supplied by the same original source or other sources; and”

This section recites that the brand name product representations in the display signs are, at most, a relatively small fraction of the number of usage related products in the aisle that is associated with that display sign.

COMMENT: This limitation, combined with the other recitations in claim 16, unquestionably distinguishes over the Ramey et al patent. In the somewhat lengthy discussion of the Ramey et al patent that was given in section B, it was pointed out that if the main sign at the end of the aisle in Ramey et al were changed so that it no longer had representations of each and every moulding that was in the aisle, it would totally frustrate the basic teachings of the Ramey et al patent.

Also, this clearly differentiates the basic function of the present invention in comparison with the Ramey et al patent. The philosophy of the Ramey et al patent is basically to enable a person wishing to buy a specific product to be led right to the location of that product, proceeding from a rather general representation of all of the products available, selecting that one, finding its group, going according to color coding to find the location, then finding another sign there, and then looking along just the several mouldings in that group to find his.

Now the philosophy of the present invention is much different. With there possibly being a hundred or more products in any one aisle, there is no attempt to list all of the products, much less give their locations. Rather, this is to select some particular items that are in that aisle and display these in a way in which they are more easily remembered, and then the person will be able to relate these to the usual location related products that might be found so that he could have a good probability of finding the product he sought in that particular aisle.

Also, the store would also benefit from this arrangement in that when these products are location related, it would often that there would be additional “impulse shopping” where the shopper would recall that he/she would want an additional product. For example, the shopper may be buying some soft drinks, and then when the shopper sees these snack products or popcorn nearby, it is that these are added to the shopping cart.

Paragraph h) of claim 16.

This recites that the signs are positioned at a substantial number of the aisles, thus enabling the customer to be able to observe a large number of these display signs so as to have a “memory hook” as to what is in the various aisles.

COMMENT: This enables the accomplishment of one of the other goals of the present invention, in that it enables the shopper to become better acquainted with the entire store. Thus, a shopper can better plan his/her shopping tour through the store and again, at the risk of being repetitious, one of the main criteria by which a person selects a store is that they are able to get around the store and find their products more easily. Also, as will be indicated later, the six month experiment in determining the value of concept of the present invention demonstrated that this was an advantageous result by use of the system of the present invention.

The final “whereby” clause of claim 16.

This summarizes the functions accomplished by the present invention where the shopper is able to observe individual signs, have a good memory hook of what is in that aisle, and as the shopper goes through the store he/she becomes more familiar with the entire layout.

D) Benefits of the present invention.

- a) **The case study which verified the benefits of the present invention.**

This case study is described in the text of the patent application, beginning on page 40, line 19 and continuing on through page 43. Accordingly, this will be explained only briefly in these comments.

The entire study took place over a period of six months and this was done at a supermarket store having a shopping area of 47,000 square feet. The study was divided into first and second three month periods. In the first three month period the display signs were not used. But a base line was established by selecting ninety-four grocery products which were to be used as representations on the display signs which were being prepared. In the first three months period, the sales of the ninety-four products which were to be presented on the signs were tracked closely not only in this store where the display sign was to be used, but also in the other thirty-four stores which are run by the same business entity as this selected store. In the first three months the word signage was displayed as shown in the drawings of the application, but the brand product representations were not shown in this first three month period.

For the second three month period the display signs were placed at the aisles and the selected brand name products continued

to have the sales figures tracked. The display signs were done in the same manner as shown in the drawings of the present application. At the end of the second three month period the sales figures of the selected brand name products of the thirty-four other stores was a 9.5% increase. However, the increase of sales of these same selected brand name products that were on the display signs of the store of the case study had **an increase of 45.1%.**

These case studies lead us then to two avenues of thought. First, this indicates that the brand name product representation signs when used in addition to the word signs do get substantially more attention from the consumer and more specifically it attracts a consumer's attention to the extent that it would actually lead to the shopper who is traveling down the aisle to identify and actually purchase the items which are shown in the brand name product representative signs.

The second avenue of thought into which we were led is the advertising value of the brand name product representation signs. In other words, it helps sell the products that are shown on the display signs. Thus, this could be used, for example, as an inducement for

the producers of these display products to at least defray the cost of placing representations of its products on location identifying signs.

b) The information gained by the personnel at the selected store as to the merits of the system of the present patent application.

Much of this information is contained in the Declaration of Mr. David Webber who was the store manager of the store in which the case study was done. Mr. Webber's Declaration was made a record to the Patent Office, and it is assumed that it is in the file. However, for the convenience of the Examiner, that Declaration of Mr. Webber is attached to this Response, and reference will be made to the page and line of Mr. Webber's Declaration.

NOTE: These refer to the pages of Mr. Webber's Declaration.

Page 4, seven lines from the bottom.

"I was also asked by Mr. Hughes whether I would have any indications, possibly from customer comments whether it was easier to find items in the store by having Mr. Enfield's system in place. My answer to Mr. Hughes was "absolutely yes", in indicating that was getting a favorable response.

Page 5, beginning five lines from the top.

Mr. Webber gives an example of when they were opening a new store and the layout of the store was different in terms of the location of the aisles from the one in which Mr. Webber was at to do the case study. The employees of the store had to become familiar with the locations of the various items were in the store. They all stated to Mr. Webber that the system with the brand name product representations made it much easier and much faster to learn the layout of the store when they had these “pictures” to go by.

COMMENT: Also, Mr. Webber was asked what his explanation was, and he stated that the representation of the entire product makes it much easier to recall what he saw in the picture as opposed to remembering all the words listed on the sign.

Page 5, third line from the bottom.

Mr. Webber states there was a fair amount of the people coming into the store who were Latinos and some do not have a very good command of the English language. This made it very convenient for them.

Page 6, middle of the page.

When people who did not regularly stop at Mr. Webber's store saw this new system of Mr. Enfield's, they asked when the next stores were going to adopt this new system. His conclusion was that installing the system would likely get people into the store and remain as regular customers.

Page 6, bottom of the page.

Mr. Webber says while he doesn't have any hard evidence, he feels that there would be more "impulse shopping" and this would be due that in addition to possibly seeing only the product on the store shelf, the shopper would see pictorial representations of the product on the display sign at the of the aisle, and this would lead to increased shopping.

Page 5, first full paragraph.

When Mr. Webber was near the check-out counters in the store he would ask a shopper who was at the check-out counter to quickly find the location of a product by looking at the several display signs

actually showing the products themselves. The shopper would pick out the product almost immediately by looking at the signage when the signs of Mr. Enfield's system were up, and the shoppers were not able to accomplish this anywhere near as quickly when this was not up and the shopper was looking only at the words.

c) In the text of the present application, Mr. Enfield discusses various advantages of the present invention beginning on page 32 and carrying on through page 34.

In the bottom part of page 32 Mr. Enfield comments with regards to the old adage "a picture is worth a thousand words". We should look a little deeper and recognize that the people (artists) who put the signs together make sure that these are artistically done to make the representations distinctive, and also pleasing to the eye. In each of these there is a certain "artistic balance". What is the effect of this? One is that it catches one's attention and gives a shopper a number of "memory hooks".

d) An observation of the undersigned (i.e., the patent attorney submitting this response). This will be put in his own words.

“In looking at the sign of Fig. 5A, for example, there is prominently displayed a V8 juice, one of my favorites. Let us assume that barbeque sauce is on that same aisle, but not shown in the display sign. If I am on that aisle (which I would identify as the “V8” aisle), it would be much easier for me to remember that the barbecue sauce was on the “V8 juice aisle” and I could probably remember that by thinking that the barbecue sauce tasted like V8 juice.”

COMMENT: I have no solid basis for this belief, but I commonly will try to remember various things by some type of association.

e) Mr. Enfield, the inventor, was in one of the stores in proximity to the signage, and he talked to a lady who had a young child about 3 or 4 years old.

She pointed out that when she now goes to the grocery store her daughter insists on going with her and starts doing the shopping herself, looking at the pictures and deciding what she would like to be purchased.

E) Arguments for patentability.

a) Introduction.

As indicated earlier in these remarks, it is the opinion of the undersigned that the critical issue is whether or not the claims as now submitted are or are not obvious in view of the Ramey et al patent. In the first part of section B of these remarks, there are at least eleven pages getting into great detail about exactly what the goals of the system of the Ramey et al patent are and how it functions. Also, it is pointed out in that section how the function and purpose of the Ramey et al patent would be substantially or totally disabled if the signage of the present patent application were substituted for the signage of the Ramey et al patent.

b) A common sense approach in determining “obviousness” and patentability”.

In these introductory comments in this section E., let us begin with what I would call a “common sense” approach and consider a situation where a person without reference to the Enfield patent or any other patent for that matter were to be given the Ramey et al patent and to study it and find out what teachings or suggestions that person could derive from the Ramey et al patent to come up with the

various ideas which would be obvious from reading the Ramey et al patent. And let us remember that we are not asking that this mythical person to do something inventive with the Ramey et al patent, rather we are asking that individual to look at the Ramey et al patent and find out what adaptations of the Ramey et al patent would be obvious.

c) The first step in reviewing Ramey et al.

We will start by looking a column 1 of Ramey et al and look again at the paragraph under “Field of the Invention” as was done in our discussion of section B.. Ramey et al is finding solutions for the displaying of bulk commodities including such things as finished and unfinished mouldings, picture frames, etc.. It line 30 and following of column1, Ramey et al points out that the display of mouldings and other bulk commodities for sale “present a number of unique problems”. In the very next sentence, Ramey et al states that “it is often difficult for a consumer to locate a particular moulding or other bulk commodity he or she desires without the assistance of a sales person.” In these initial paragraphs Ramey et al is directing the readers attention into this particular set of problems having to do with mouldings or other bulk commodities.

d) Would a person reading Ramey et al find any suggestion that the Ramey et al system would have other applications?

Now let us ask the following question:

QUESTION: “Is there anything in the introductory portion of Ramey et al or other parts of Ramey et al that would suggest that it would be obvious to take the teachings of Ramey and adapt these to a supermarket/grocery store environment?”

NOTE: The claims of this application are directed to the supermarket - grocery store environment.

ANSWER: As far as the undersigned can see, there is not, but let us allow our imagination to go a little bit further and assume that a person found some reason why he/she would like to adapt the Ramey et al patent to a grocery store or supermarket. Admittedly, there is nothing in Ramey et al to suggest this (as already stated), but let us do it anyway.

e) The first step in adapting Ramey et al to the aisles of a supermarket/grocery store.

- i) To follow the teachings of Ramey et al, there would have to be a large sign at the end of a substantial number of the aisles, and each sign would list all of the products which are on that aisle of the grocery store. Then if we were to faithfully follow the Ramey et al lead, we would not only list the products, but we would show some representation of the products, such as Ramey et al does with the cross-sections of the mouldings.
- ii) Then the next step would be to arrange the large sign at the end of the aisle with all the products being separated in several groups, and each group would have a color coding. Further all the products would be in separate groups at locations as in the Ramey et al patent. Further, each group would have its own color coding.
- iii) Further, there would be specific display panels at each section along the aisle repeating each and every product in that section of the aisle, and also by selectively removing the names of some products to indicate that those products are not presently available.

F) Now with that new Ramey et al stem installed, what do we have?

Who knows? Maybe the grocer who adapted this system would have a workable system in place where a shopper can find everything he/she is looking for. Maybe it would work.

**BUT BY APPLYING THE TEACHINGS OF RAMEY ET AL,
WE WOULD NOT HAVE THE ENFIELD SYSTEM AS
PRESENTLY CLAIMED IN THIS RESPONSE!!!!**

G) What is the difference?

i) The philosophy of the Enfield patent is not to make a large transition in the basic way the supermarkets currently operate. Rather, he recognizes that the general system of arranging the grocery products has become entrenched in the hundreds (thousands) of stores. Yet Mr. Enfield recognizes the need to make grocery store shopping more “user friendly”. Accordingly, he has created this system of brand name product representations that is not only well suited for present grocery store systems, but also uses them to their advantage. More specifically, there are group signs at or near to the end of the aisle and these representations are selected so that they give the shopper information. The shopper sees a picture like

sampling of only some products that are representative of other products present in that particular aisle and from this he has a better idea of what is in the aisle.

ii) By association of group related products the shopper surmises what other location related products there might be in the aisle based upon prior experience of the shopper in being in various supermarkets (or for that matter this very same supermarket). Mr. Enfield has made a system where the shopper has better memory hooks to remember what are in the various aisles, and also more quickly get a mental image of the overall layout of the store.

H) Evaluating obviousness and patentability with a more conventional approach.

With the common sense approach having been presented, let us now shift gears to some extent and look at the claim language, examine the prior art cited, and apply the principles as currently presented by the CAFC.

i) It has been elementary in the earlier CCPA and the later CAFC decisions that if the prior art reference relied upon would have its function or goals frustrated by adopting the components or teachings of the patent application which is being examined, it would be a prima facie case that the prior art reference could not be considered to

make the invention obvious. In the present situation with the Ramey et al patent it is quite evident that substituting the signage of the Enfield system for that of the Ramey et al patent would not only be contrary to the teachings of the Ramey et al patent, but to express it possibly in more colorful terms, it would be “catastrophic” to the system of Ramey et al.

ii) Since this was discussed at some length earlier in these remarks (more particularly in section B), all of this will not be repeated in these remarks. However, to summarize that analysis which appeared earlier in these remarks, the system of Ramey et al depends upon the main sign at the end of the aisle listing not only each and every item which is in that aisle, but also organizing these into groups with color coding. Then these lead the shopper to the appropriate color coded section where that item will be found.

iii) On the contrary, in the system of the present application (the Enfield system), there is no attempt to list each and every item at the main sign at the end of the aisle. Rather, a number of representative products are shown in a pictorial fashion and these are indicative of the rest of the products that are in the aisle. If this system of the

Enfield patent application were incorporated into the Ramey et al system, it would be catastrophic to the Ramey et al system.

I) A Final and Very Important Point!!!!

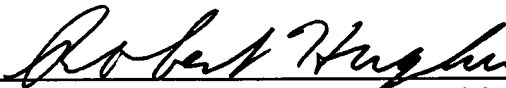
Paragraph g) of claim 16 and the corresponding paragraph in claim 17 state that the brand name product representations which are on the display sign are numerically only a small fraction of the total brand name products that are in that aisle. As indicated above, by applying this limitation directly into the Ramey et al system, the results would not only be inconsistent or antagonistic to the Ramey et al system, but the word “catastrophic” would likely be more appropriate. The whole system of Ramey et al of first identifying all of the products to the person at the end of the aisle and then leading them down to the aisle at the right locations to get exactly the product he/she wants would be totally frustrated. The Ramey et al system and the Enfield system are at opposite ends of the spectrum.

It is respectfully submitted that the present application should be found to be in a condition to be found allowed. However, if there are any other matters which need to be resolved, and if consultation with the Applicant's attorney, the underlined herein, would be most welcome. The

Applicant's undersigned attorney can normally be reached at the telephone number set forth below.

Signed at Bellingham, County of Whatcom, State of Washington this September 07, 2006.

Respectfully submitted,
PAUL S. ENFIELD,

By  _____

Robert Hughes, Reg. No. 19,304
Hughes Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
Bellingham, WA 98226
(360) 647-1296
Fax (360) 671-2489